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Fuel Tax Credits

- **Nonhighway Business Equipment**
- **Aircraft**
- **Buses**
- **Taxicabs**

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Department of the Treasury
Internal Revenue Service

Introduction

This publication provides an explanation of the credit or refund allowed for the federal excise tax paid on gasoline, lubricating oil, diesel and special motor fuels, and aviation fuels.

Parts I—III explain the conditions under which you may claim credit or refund for the federal excise taxes paid on gasoline and lubricating oil, diesel and special motor fuels, and aviation fuels. You will find information on qualifying use, tax rates, and the amount of tax for which you may claim a credit or refund.

Part IV contains information about the refund or credit of the excise taxes paid on fuels or lubricating oil used by school buses or other buses used in public transportation.

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Part V tells when and how to claim the credit or refund. It tells what information is needed and the year to include the credit or refund in your gross income.

Part VI gives general information on records you should keep, interest, and penalties.

Part I Gasoline and Lubricating Oil

The amount you pay for gasoline and lubricating oil usually includes a federal excise tax. You may be entitled to a refund or a credit on your income tax return for all or part of this tax. If, after reading this part, you find you are able to claim a refund or credit, see Part V.

Gasoline. The federal excise tax on gasoline is 4 cents a gallon and is included in the price you pay for the gasoline unless you purchase it tax free (see *Exempt Sales*, later in this part).

You may claim a credit or refund of 2 cents a gallon for gasoline used for a qualified business use (see *Qualified Business Use*, later).

You may claim a credit or refund of the entire 4 cents a gallon for gasoline used during 1979 and 1980 in a taxicab performing qualified taxicab services (see *Qualified Taxicab Use*, later).

Farmers may claim a credit on their income tax returns for all the federal excise tax on gasoline used on a farm for a farming purpose. The farmers gas tax credit is discussed in Publication 225, *Farmer's Tax Guide*. The use of fuel for crop dusting and other aerial application is discussed in Part III.

Aircraft owners, lessees, or other operators may be entitled to claim a credit or refund for all the federal excise taxes paid on gasoline used as fuel in an aircraft in commercial aviation. The credit is the 4-cents-a-gallon tax mentioned earlier, plus 3-cents-a-gallon tax (if paid) for gasoline sold for use in an aircraft. Certain aircraft museums that operate or exhibit World War II type aircraft are also entitled to the credit or refund of these gasoline taxes. See Part III for more information on aviation fuels.

If you use gasoline in providing bus transportation to the general public or students or school employees, see the discussion later in Part IV.

Gasoline lost or destroyed through spillage, accident, shrinkage, etc., is not considered to be ***used*** within the meaning of the law and does not qualify for a credit or refund.

Gasoline is any liquid commonly or commercially known or sold as gasoline that can be used as a motor fuel.

Lubricating oil. The federal excise tax on lubricating oil is 6 cents a gallon and is included in the price you pay for lubricating oils (other than cutting oils) unless you purchase the oil tax free (see *Exempt Sales*, later in this part).

You may claim a credit or refund of the entire 6 cents a gallon for lubricating oil used for a qualified business use.

See Part IV for a discussion of the credit or refund for lubricating oil used in buses.

Lubricating oil is any oil (other than cutting oils) suitable for, and sold as, a lubricant. It does not include synthetic materials and products commonly known as grease.

Qualified Business Use

A qualified business use is a use in a trade or business or in any income producing activity. The use must not be in a highway vehicle registered or required to be registered for use on public highways unless the vehicle is owned by the United States. If the vehicle is owned by the United States, it may be registered, or required to be registered, for highway use, but if it is not actually used on a public highway it is still a qualified business use.

The term "qualified business use" does not include any use in a motorboat (whether or not the use is a business use) except for use in commercial fishing boats. Gasoline and lubricating oil used in a boat for commercial fishing are exempt from the excise tax. See Publication 595, *Tax Guide for Commercial Fisherman*, for information on how to buy the gas and oil tax free or how to claim a refund or credit of the taxes paid.

Nonhighway use. Gasoline or lubricating oil that is not used in a highway vehicle may qualify for the credit or refund if the use is a qualified business use. Examples include gasoline or lubricating oil used to operate stationary machines such as generators, compressors, power saws, and similar equipment; and for washing and cleaning operations, if the gas or oil is purchased by the ultimate consumer and if the equipment into which the gas or oil is placed is used in a trade or business or in an income producing activity.

A credit or refund is allowed for gasoline and lubricating oil used for a qualified business use in a highway vehicle if at the time of the use, the vehicle is not registered and not required to be registered for use on public highways. For example, cars and trucks operating off the highway for construction, mining, or timbering qualify if the vehicles are not registered and are not required to be registered (see *Registered*, later in this part).

Dual use of gasoline and lubricating oil. The credit or refund is not allowable for gasoline or lubricating oil used for a qualified business use in the motor of a registered highway vehicle even if the motor also is used other than to propel the vehicle. It does not matter if the special equipment is mounted on the vehicle. For example, there is no credit or refund on gasoline or lubricating oil used to operate the

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mixing unit on a concrete-mixer truck when the mixing unit is operated by a power take-off from the motor of the vehicle. Similarly, gasoline and oil used in the motor of a registered fuel-oil delivery truck to operate the pump on the truck for discharging the fuel into the customer's storage tank does not qualify.

If a registered highway vehicle is equipped with a separate motor to operate the special equipment, such as a refrigeration unit, pump, generator, or mixing unit, the gasoline and lubricating oil used in the separate motor qualifies. When gasoline is drawn from a tank that supplies fuel for propelling the vehicle, figure the quantity used in the separate motor operating the special equipment. Your reasonable estimate of the amount of fuel used will be accepted for a credit or a refund. The figure must be based, however, on operating experience and supported by your records. Devices to measure the number of miles the vehicle has traveled, such as hubometers, may be used to figure the number of gallons of fuel used to propel the vehicle. Subtract the amount of fuel consumed while idling or warming up the motor preparatory to propelling the vehicle.

Highway vehicle means any self-propelled vehicle or any trailer or semi-trailer designed to carry a load over public highways, whether or not also designed to perform other functions. Exceptions are discussed later under *Vehicles not considered highway vehicles.*

A vehicle consists of a chassis, or a chassis and body, but does not include the load. It does not matter if the vehicle is designed to perform a highway transportation function for only a particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer) or a special kind of cargo, goods, supplies, or materials. It does not matter if machinery or equipment is specially designed (and permanently mounted) to perform some off-highway task unrelated to highway transportation except to the extent discussed in the next paragraph. Examples of vehicles that are designed to carry a load over public highways are passenger automobiles, motorcycles, buses, highway-type trucks, truck tractors, trailers, and semi-trailers.

Vehicles not considered highway vehicles. Generally, there are three kinds of vehicles that are not considered highway vehicles.

1) Specially designed mobile machinery for non-transportation functions. A self-propelled vehicle, or trailer, or semi-trailer is not a highway vehicle if—
   a) The vehicle consists of a chassis to which is permanently mounted machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or operations similar to any of these), if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,
   b) The chassis has been specially designed to serve only as a mobile carriage and mount for the machinery or equipment, whether or not the machinery or equipment is in operation, and
   c) The chasis, because of its special design, could not be used as part of a vehicle designed to carry any other load without substantial structural modification,
2) Vehicles designed for off-highway transportation. A self-propelled vehicle, or trailer or semi-trailer is not a highway vehicle if—
   a) The vehicle is designed to carry a specific kind of load other than over the public highway for certain operations (construction, manufacturing, mining, processing, farming, drilling, timbering, or similar operations), and
   b) The vehicle's use to carry this load over public highways is substantially limited or impaired because of its design.

For the purpose of (b), you should consider whether the vehicle may travel at regular highway speeds, requires a special permit for highway use, is overweight, overheight, or overwidth for highway use.

If equipment attached to a vehicle is used for loading, unloading, storing, vending, handling, processing, preserving, or otherwise caring for a load carried by the vehicle over public highways, the functions are related to the transportation of a load over public highways, even though they may be performed off public highways.

3) Trailers and semi-trailers specially designed to perform non-transportation functions off the public highways. A trailer or semi-trailer is not a highway vehicle if it is designed as an enclosed stationary shelter for functions directly connected with and necessary to the off-highway site of an operation (construction, manufacturing, mining, processing, farming, drilling, timbering, or similar operations). For example, a trailer specially designed to be used as an office at a construction site is not a highway vehicle.

A public highway includes any road (federal or state highway, or city street) in the United States that is not a private roadway.

Registered. For credit or refund purposes, the term registered when referring to a highway vehicle means:

1) Registered for highway use under the law of any state, the District of Columbia, or any foreign country, or
2) Required to be registered for highway use under the law of any state, the District of Columbia, or any foreign country, in which it is operated or situated.

Any highway vehicle operated under a dealer's tag, license, or permit is considered to be registered.

Qualified Taxicab Use

You may claim a credit or refund of 4 cents a gallon for gasoline, diesel, and special motor fuels used during 1979 and 1980 in a qualified taxicab performing qualified taxicab services.

A qualified taxicab is any land vehicle with a passenger capacity of less than 10 adults including the driver.

Certain gas-guzzling taxicabs excluded. A qualified taxicab does not include any vehicle if:

1) The vehicle is acquired by the person operating the vehicle after 1978,
2) The model year of the vehicle is 1978 or later, and
3) The fuel economy of the model type of this vehicle does not meet the fuel efficiency standards under the *Motor Vehicle Information and Cost Savings Act.*

An exception is provided for vehicles manufactured by small manufacturers. Small manufacturers are those that produce fewer than 10,000 vehicles a year.

Qualified taxicab service means furnishing nonscheduled passenger land transportation for a fixed fare by a taxicab operated by a person who is licensed to furnish this transportation and furnishes shared transportation. The license to engage in this transportation must be granted by the federal, state, or local authority having jurisdiction over a substantial portion of the transportation furnished. Ride sharing must be permitted under the laws, regulations, or procedures of this licensing authority and not be prohibited by company policy. However, shared rides are not to be required without the consent of passengers.

Exempt Sales

Refunds or credits are not allowed for any gasoline or lubricating oil exempt from tax (see exception under *Gasohol*).

Thus, for example, state or local governments that may purchase gasoline tax free may not claim any credit or refund. Similarly, no claims are payable for gasoline or lubricating oil sold tax free for export, for use as ships' supplies, and for use in aircraft employed in foreign trade.

State or local governments or nonprofit educational organizations are exempt from excise tax on gasoline, or lubricating oil sold to them for their exclusive use. These are usually sold tax free to these buyers. Any excise tax paid by an exempt user can be recovered from the producer or manufacturer who paid the tax to the government. Claims should not be filed by the state, the local government, or a nonprofit organization with the Internal Revenue Service.

Gasohol, a blend of gasoline or other motor fuel and alcohol, that is at least 10% alcohol,

is exempt from the excise tax. This exemption for gasohol applies to blends made with ethanol and methanol but does not apply to alcohol produced from petroleum, natural gas, or coal.

Gasoline or motor fuels sold in bulk quantities for delivery in a bulk storage tank of a qualified producer for use in making gasohol are also exempt. Qualified producers can register to purchase gasoline free of the Federal excise tax by filing Form 637, *Registration for Tax-Free Transactions Under Chapter 32 of the Internal Revenue Code*, with their Internal Revenue office.

See Publication 510, *Excise Taxes for 1980*, for more information.

A taxpayer who mixes alcohol with gasoline on which the 4 cents a gallon federal excise tax has been imposed may claim a credit or refund of the gasoline tax.

Beginning October 1, 1980, you may be able to claim a tax credit for alcohol used in the production of gasohol, or for alcohol used as a fuel in your trade or business or sold at retail and placed in a fuel tank. The amount of the credit is either 30 cents a gallon or 40 cents a gallon, depending on the proof of the alcohol. Form 6478 will be used to claim the credit. For more information, see Form 6478 and instructions, which should be available by October 1, 1980.

Rerefined lubricating oil. Lubricating oil is exempt from the tax on oil if sold by a producer to another producer for use in mixing with rerefined oil (that is oil of which more than 25% is used or waste lubricating oil that has been cleaned, renovated, or rerefined). All of the new oil in a mixture is exempt from the tax if the blend contains 55% or less of new oil. If the mixture contains more than 55% new oil, the exemption applies only to the portion of the new oil that does not exceed 55% of the mixture.

Part II Diesel and Special Motor Fuels

The amount you pay for diesel and special motor fuels may include a federal excise tax. If the price you pay includes the tax, under certain conditions you may be entitled to a refund or a credit on your tax return for all or part of this tax. If, after reading this part, you find you are able to claim a refund or credit, see Part V.

If you use diesel or special motor fuels for farming purposes, you may be able to purchase the fuels tax free. For information on this and how to claim a credit on your income tax return for fuels that you did not purchase tax free, see Publication 225, *Farmer's Tax Guide*.

Diesel and special motor fuels used in a boat for commercial fishing are exempt from the excise tax. See Publication 595, *Tax Guide for Commercial Fisherman*, for information on how to buy the fuels tax free or how to claim a refund or credit of the taxes paid.

You may claim a credit or refund of the federal excise tax paid on diesel or special motor fuels used during 1979 and 1980 in a taxicab performing qualified taxicab services. See *Qualified Taxicab Use*, earlier in Part I.

Aircraft owners, lessees, or other operators (including certain aircraft museums) should see Part III for information on aviation fuels.

If you use diesel or special motor fuels in providing bus transporation to the general public or students or school employees, see Part IV.

Diesel Fuel

Diesel fuel is taxed only if used, or sold for use, in a diesel-powered highway vehicle. The federal excise tax is 4 cents a gallon or 2 cents a gallon depending on whether or not the vehicle is registered or required to be registered for use on a public highway. However, the federal excise tax on a vehicle owned by the United States and not used on the highway is only 2 cents a gallon.

A diesel-powered highway vehicle is a motor vehicle that uses diesel fuel. The terms "highway vehicle," "registered," and "public highway" were defined earlier in Part I. See *Motor Vehicle*, later in this part for a definition of motor vehicle.

Registered for highway use. The tax rate of 4 cents a gallon applies to any liquid, other than gasoline, sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in that vehicle. It also applies to any liquid acquired any way but through a taxable sale and used in a diesel-powered highway vehicle.

Not registered for highway use. The tax rate is 2 cents a gallon if the diesel-powered highway vehicle is not registered, and not required to be registered, for highway use under the laws of any state, the District of Columbia, or a foreign country. For example, diesel fuel delivered into the tank of a diesel-powered highway vehicle, not registered or required to be registered, may be sold at the tax rate of 2 cents a gallon.

However, an additional tax of 2 cents a gallon on this fuel is payable by the user, if the diesel fuel is used in a diesel-powered highway vehicle registered for highway use or in a diesel-powered highway vehicle owned by the United States and used on the highways. The user must file Form 720, *Quarterly Federal Excise Tax Return*, and pay the additional tax.

Credit or refund. If you paid tax at the rate of 4 cents a gallon and used the diesel fuel in a diesel-powered highway vehicle not registered and not required to be registered for use on a public highway, you may claim a refund or credit of 2 cents a gallon.

If you were required to pay the tax (at either the rate of 4 cents a gallon or 2 cents a gallon) and the fuel ultimately is used for a nontaxable purpose, you may claim a credit or refund of the full tax paid. See *Nontaxable Use*, later in this part.

See Part V for information on how to claim a refund or a credit on your income tax return.

Special Motor Fuels

Special motor fuels are taxed only if used, or sold for use, in a motor vehicle or motorboat. The federal excise tax is 4 cents a gallon unless the fuel is used in a qualified business use. If the special motor fuel is used in a qualified business use, the tax rate is 2 cents a gallon. Except for commercial fishing boats, the 4-cents-a-gallon rate applies to any use in a motorboat (whether or not the use is business use).

If you purchase special motor fuels taxed at the rate of 2 cents a gallon for use in a qualified business use, but later use the fuel in a motor vehicle, not in a qualified business use, you must pay the additional 2-cents-a-gallon tax. This is done by filing Form 720.

A qualified business use is a use in a trade or business or in any income producing activity. The use must not be in a highway vehicle registered or required to be registered for use on public highways unless the vehicle is owned by the United States. If the vehicle is owned by the United States, it may be registered, or required to be registered, for highway use, but if it is not actually used on a public highway it is still a qualified business use.

The terms "highway vehicle," "registered," and "public highway" were defined earlier in Part I.

Special motor fuels includes products such as benzol, benzene, naphtha, liquefied petroleum gas, casinghead and natural gasoline, and any other liquid (except gasoline taxed as explained in Part I of this publication, and kerosene, gas, oil, or fuel oil).

Credit or refund. If you paid tax at the rate of 4 cents a gallon, but use the special motor fuel in a qualified business use, you may claim a refund or credit of 2 cents a gallon.

If you were required to pay the tax (at either the rate of 4 cents a gallon or 2 cents a gallon) and the fuel ultimately is used for a nontaxable purpose, you may claim a credit or refund of the full tax paid. See *Nontaxable Use*.

See Part V for information on how to claim a refund or a credit on your income tax return.

Nontaxable Use

There is no tax on diesel or special motor fuels sold for use in, or used in, equipment, such as a power shovel or bulldozer, that does not meet the definition of "motor vehicle." See *Motor Vehicle*, later. Therefore, if you pay the tax and later use the fuel in this manner, you may claim a refund or credit of

the tax paid. However, if the fuel was exempt from tax when sold, you may not claim a refund or credit (see *Exempt Sales,* next).

Exempt Sales

You are not allowed a refund or credit for any diesel or special motor fuels that are exempt from tax. These include fuels sold for export, used as ships' supplies, or sold for use in aircraft employed in foreign trade.

Diesel and special motor fuels used for heating or sold for the exclusive use of state and local governments and nonprofit educational organizations also are exempt from the tax.

Excise tax paid by an exempt user can be recovered from the dealer or producer who paid the tax to the government. Claims should not be filed with the Internal Revenue Service.

Gasohol, diesel or special motor fuel blended with alcohol is exempt from the excise tax. See *Gasohol* in Part I. If you buy diesel or special motor fuel tax paid and use the fuel to make gasohol, you may claim a refund or credit of the full tax paid.

Taxable use. If diesel or special motor fuels are sold tax free and later used in a taxable manner, the user must file Form 720 and pay the appropriate rate of tax.

Motor Vehicle

The term "motor vehicle" includes all types of vehicles propelled by motors that are designed for carrying or towing loads from one place to another, regardless of the type of load or material carried or towed and whether or not the vehicle is registered or required to be registered for highway use. For example, fork lift trucks used to carry loads at railroad stations, industrial plants, and warehouses are motor vehicles. The term does not include farm tractors; nor does it include trench diggers, power shovels, bulldozers, road graders or rollers, and similar equipment that do not carry or tow a load, nor does it include any vehicle that moves exclusively on rails.

Part III Aviation Fuels

A federal excise tax applies to any liquid (excluding gasohol) sold for use or used as fuel in an aircraft in other than commercial aviation before Oct. 1, 1980. The rates of tax are as follows:

7 cents a gallon on special fuels (including jet fuels), and

3 cents a gallon on gasoline.

This 3-cents-a-gallon gasoline tax is in addition to the 4-cents-a-gallon gasoline tax previously discussed. Thus, the total tax on gasoline used as fuel in an aircraft in other than commercial aviation is 7 cents a gallon.

Note: At the time this publication went to print, the federal excise tax on aviation fuels was scheduled to expire on Oct. 1, 1980. Contact your nearest Internal Revenue office for the latest information.

Commercial aviation means any use of an aircraft in a business of transporting persons or property by air for compensation. The term does not include the following two uses:

1) Transportation by an aircraft having maximum certificated takeoff weight (maximum weight in type or air-worthiness certificate) of 6,000 pounds or less and ***not*** operated on an established line, and
2) Transportation that is furnished by one member to another member of an affiliated group of corporations. The aircraft must be owned or leased by a member of the affiliated group and must not be available for hire by a nonmember of the affiliated group. An affiliated group of corporations is any group of corporations connected with a common parent corporation through 80% stock ownership.

Credit or refund. Aviation fuel purchased for use in, or used in, commercial aviation is normally purchased tax free. If, however, you have paid the excise tax, and later use the fuel in commercial aviation or for some other use taxed at a lower rate, you may claim a credit or refund of all or part of the tax paid.

If you paid tax at the rate of 7 cents a gallon and use the fuel in aircraft in commercial aviation, you may claim a refund or credit on your tax return of the entire 7 cents a gallon.

For example, credit or refund may be claimed for the entire tax paid on the purchase of aviation fuels that are used in:

1) An air taxi (with maximum certificated takeoff weight of 6,000 pounds or less), but only when the aircraft is operated on an established line,
2) An aircraft with maximum certificated weight of more than 6,000 pounds, but only when it is used in a business of transporting persons or property for compensation, and
3) An aircraft used by an airline not only on scheduled flights, but also to train its own pilots and carry its executives on business flights.

If you use fuel for a purpose other than that for which you bought it, or you resell it, you may claim a credit or refund for the difference between the tax paid and the tax (if any) that applies to the actual use. For example, if you use liquid, on which you paid tax of 7 cents a gallon, as fuel in a highway vehicle, to which the 4-cents-a-gallon tax applies, you could claim a credit or refund of 3 cents a gallon.

Aircraft Museums

Aircraft museums are exempt from taxes on gasoline or special fuels sold for use or used in an aircraft or vehicle (such as a ground servicing vehicle for aircraft) that is owned by the museum.

In order to qualify as an aircraft museum, the organization must:

1) Be exempt from income tax as an organization described in section 501(c)(3) of the Internal Revenue Code (relating to an educational organization),
2) Be operated as a museum under a state (or District of Columbia) charter, and
3) Be operated exclusively for acquiring, exhibiting, and caring for aircraft of the type used for combat or transport in World War II.

Credit or refund. Although aircraft museums generally purchase the fuel tax free, any tax paid may be refunded or credited as explained in Part V.

Farming

Gasoline and special fuels used in noncommercial aviation are also exempt from the 7 cents a gallon excise tax if the fuel is used for farming purposes. Crop dusting, fertilizing, and other aerial applications are considered operations for farming purposes.

If fuels are used for aerial applications after March 1979, and the farmer waives the right to claim a credit or refund for tax-paid aviation fuels used for farming purposes, the credit or refund may be claimed by the cropduster. The aerial applicator is treated as having used the gasoline on a farm for farming purposes.

Aerial applicators should see Part V for information on claiming a refund or credit.

Part IV Buses

You may get a refund or credit for excise tax paid on gasoline, or other motor fuels used in intercity, local, or school buses and lubricating oil used in a qualified bus.

The credit or refund is the number of gallons used times the tax rate:

Gasoline—4 cents a gallon,

Diesel and other special motor fuels—4 cents a gallon, and

Lubricating oil—6 cents a gallon.

No credit or refund is allowed for any gasoline, lubricating oil, or other fuels sold tax free. For example, a school district that may purchase for its exclusive use, fuels and lubricating oil tax free may not file a claim for credit or refund with the Internal Revenue Service. (See *Exempt Sales,* in Parts I and II). A school district does not buy fuels for its exclusive use when it resells the fuel to a school bus operator for use in transporting students. The excise tax must be paid and the operator, the ultimate purchaser, is entitled to any refund or credit described in this part.

If you find you are able to claim a refund or credit, see Part V.

Gasoline, Diesel, and Other Fuels

The credit or refund applies to the excise tax on fuels used in a bus while engaged in furnishing (for compensation) passenger land

transportation available to the general public or the transportation of students and school employees.

If fuels are used for taxable and nontaxable purposes, you may allocate the use on a mileage basis (in the same or comparable vehicles) or on an actual use basis.

Lubricating Oil

Credit or refund of the excise tax on lubricating oil will be made if the oil is used in a qualified bus.

An intercity or local bus is a qualified bus if it is used predominantly (more than 50%) in furnishing (for compensation) passenger land transportation available to the general public.

A school bus is a qualified bus if substantially all of the use (at least 85%) is in transporting students and school employees.

Passenger Land Transportation

You are allowed a credit or refund of tax paid on fuels and lubricating oil used in an intercity or local bus furnishing (for compensation) passenger land transportation to the general public. Furnishing passenger land transportation includes:

1) Scheduled transportation service along regular routes regardless of the size of the bus, and
2) Nonscheduled (charter) operations if the bus passenger seating capacity is at least 20 adults not including the driver and if the transportation is available to the general public. Vans and similar vehicles used for van-pooling or taxi service do not qualify.

It not only includes mileage traveled with passengers, but also use related to passenger transportation, such as deadheading (driving empty to or from a point to or from which passengers are transported).

Available to the general public means service offered to more than a limited number of persons or organizations. If a bus operator normally provides charter operations through travel agencies, but these buses are available for chartering by the general public, this service is available to the general public. However, if the bus operator is engaged in providing exclusive services to only one person, group, or organization, or a limited number of persons on a particular bus, that bus is not available to the general public.

Transportation of Students

You are allowed a credit or refund of tax paid on fuels used in a school bus furnishing transportation to students and school employees. You also are allowed a credit or refund of tax paid on lubricating oil used in a school bus if substantially all its use is in transporting students or school employees.

Deadheading a school bus, that is, driving a bus without passengers to or from a point to or from which students or employees of schools are transported, is considered a use in transporting students or employees of schools.

A school is an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance where the educational activities are carried on. The credit or refund applies to use by tax-exempt and taxable schools. It also applies to a private contractor who operates a bus for tax-exempt or taxable schools.

Part V Claiming the Credit or Refund

If after reading any of the first four parts of this publication, you find you are able to claim a refund or credit of federal excise tax, this part will tell you when and how to make that claim.

When to Claim Credit or Refund

You may claim refunds of taxes on fuels and lubricants annually or quarterly, depending on the amount of the claim. Unless you have a claim of $1,000 or more a quarter, ($50 for gasoline or motor fuels used in qualified taxicab service; $200 for gasoline/alcohol mixture) figured separately for (1) lubricating oil, (2) gasoline, and (3) diesel, special motor, or aviation fuels, the tax may be claimed only as a credit against the income tax for the tax year in which the qualifying use occurred. It is not necessary to pay for the fuel before you claim the credit or refund.

Example. Harry Jones reports his income on the calendar year basis. For 1979, he used 40,000 gallons of gasoline that qualified for the 2-cents-a-gallon credit. In preparing his income tax return for that year, he may claim a credit of $800 (40,000 gal. × 2 cents) against his income tax.

You may claim the credit on your income tax return for the tax year in which the qualifying use occurred. Or, you may file an amended return or claim for credit or refund. You can do this within 3 years from the date your original return was filed or within 2 years from the time the tax was paid, whichever is later. A return filed early is considered to have been filed on the due date.

If you have $1,000 or more of tax credit ($50 for a qualified taxicab service; $200 for gasoline/alcohol mixture) for (1) lubricating oil, (2) gasoline, or (3) diesel, special motor, or aviation fuels used during any of the first 3 quarters of your tax year, you may file a separate claim for a refund of each tax. The amount claimed for each class of tax must be $1,000 or more ($50 for a qualified taxicab service).

File the claim by the last day of the third month following the end of the quarter for which the claim is being filed. If the claim is late, the separate refund cannot be allowed. Instead, a credit must be claimed on your income tax return. Do not claim any tax refunded as a credit against your income tax.

Example. Y Corporation is a calendar year taxpayer with the following amounts of gasoline tax credit at the end of each quarter.

January 1 through March 31	$1,340
April 1 through June 30	950
July 1 through September 30	1,100
October 1 through December 31	1,200

Y Corporation could file quarterly refund claims for the quarters ending March 31 and September 30. It may not file a quarterly refund claim for the quarter ending June 30, because the amount of credit was less than $1,000. It may not file a quarterly refund claim for the quarter ending December 31, even though the allowable credit is more than $1,000, because this is the last quarter in its tax year. If Y Corporation files quarterly claims for the two quarters for which it is eligible, it may claim a credit of $2,150 ($950 + $1,200) against its income tax. If it did not elect to file any of the quarterly claims, it could claim a credit of $4,590 against its income tax.

How to Claim a Credit or Refund

Generally a claim for refund is made on Form 843 and the claim for credit is made on an income tax return. Form 4136, *Computation of Credit for Federal Tax on Gasoline, Special Fuels, and Lubricating Oil,* should be included with your claim for credit or refund. Form 4136-T, *Computation of Credit or Refund for Federal Tax on Gasoline and Special Fuels Used in Qualified Taxicabs,* must be used with a claim for either a refund or credit for fuels used in qualified taxicab service.

Gasoline and lubricating oil. The gasoline or lubricating oil user is entitled to the credit or refund. If the user qualifies and elects to file a quarterly claim for refund, Form 843 should be used. A partnership should file the claim in the name of the partnership, and one of the partners should sign it. A corporation should file the claim in the name of the corporation and one of its officers should sign it. File Form 843 in the same name and with the same Internal Revenue Service Center where you filed your latest income tax return.

Show separate computations for a claim on gasoline, special fuel, and lubricating oil. You may use Form 4136 as a worksheet to show your computations. Attach it to your Form 843. Include Form 4136-T in any claim for taxes on fuels used in qualified taxicab services.

If you claim a credit, enter the amount on Form 1040. See instructions accompanying Form 1040. Attach Form 4136 or Form 4136-T or a statement showing the information called for later under *Information to Be Furnished.*

A corporation claiming a credit should enter the amount in the appropriate place on its Form 1120, and attach Form 4136 or Form 4136-T or a statement showing the information called for later.

A small business corporation claiming a credit should enter the amount on Form 1120S and attach Form 4136 or Form 4136-T or a statement showing the information called for later.

A partnership using qualified fuel and lubricating oil should attach a statement to Form 1065, showing the allocation to the partners of the number of gallons used. Partners can each claim the credit on their income tax returns for their share of the fuel and lubricating oil used by the partnership. Each partner must attach Form 4136 or Form 4136-T or a statement showing the information called for later.

Diesel and special motor fuels. If you are able to claim a credit or refund of tax paid on diesel or special motor fuels, the procedure is the same as just discussed under *Gasoline and lubricating oil.*

Tax-free fuel. You may buy diesel fuel or special motor fuel tax free if the dealer delivers it into your storage tank. If you later use the fuel in a registered highway vehicle, you must pay the tax of 4 cents a gallon to the Internal Revenue Service. Also, if you bought fuel for use in a vehicle not required to be registered for use on the highway and paid the dealer the 2-cent rate, and you later use the fuel in a registered highway vehicle, you must pay the additional 2-cents-a-gallon tax.

If you overpaid the tax, you may file a claim for refund on Form 843 or take credit for the overpayment against the tax due on a later return, Form 720. Attach a complete statement of the facts involving the overpayment to the claim or the return on which you take the credit. In general, information similar to that to be furnished in connection with a claim for refund in the case of gasoline should be supplied.

Aviation fuels. Aviation fuels delivered into a fuel supply tank of your aircraft are purchased tax paid unless you and the seller are registered to make tax-free sales and purchases as discussed under *Tax-free fuel.*

Aviation fuels that are ***not*** delivered into a fuel supply tank of your aircraft may be purchased tax paid if, before or at the time of the sale, you agree to pay the tax to the seller. You must get a receipt from the seller that separately states the tax and keep it as part of your records to obtain a refund.

You may claim a credit for the federal excise tax paid on aviation fuels used as fuel in an aircraft in commercial aviation against your income tax for the tax year in which the fuel was used.

Follow the procedure described in *Gasoline and lubricating oil,* to obtain a refund or credit of the tax.

Tax-free fuel. Aviation fuels delivered into your storage tank are tax free (except for the regular gasoline tax of 4 cents a gallon). These fuels also may be purchased tax free if they are delivered into the fuel supply tank of your aircraft for use in commercial aviation, or for use by certain aircraft museums, if you and the seller are registered with the Internal Revenue Service. Use Form 637A for this purpose. In most cases, each tax-free sale must have a separate exemption certificate. These certificates are needed by the seller and must state the date of the purchase, your registration number, and the intended use of the fuel.

If you purchase aviation fuels tax free and later use some or all of them as fuel in an aircraft in noncommercial aviation, or nonmuseum aircraft, making you subject to either the 7-cents or the 3-cents-a-gallon tax rates, you will become liable for the tax. You must file a Form 720 and pay the tax due.

Aerial applicators. Aviation fuels used on farms for farming purposes are exempt from the excise tax. This includes fuels used in crop dusting, fertilizing, and other aerial applications. Generally only the owner, tenant, or operator of a farm may receive a refund or credit of taxes paid on these fuels. However, for aviation fuels used after March 31, 1979, the aerial applicator may claim the refund or credit if the farmer (owner, tenant, or operator of the farm) waives the right to make the claim.

The farmer must give the applicator a written statement clearly saying that the farmer knowingly gives up all rights to receive any refund or credit for a specified period. The period normally is the farmer's tax year. The statement may be included on the applicator's invoice for services performed or may be a separate document.

A copy of the agreement must be retained by the applicator and a copy furnished to the farmer. The agreement does not have to be submitted with the claim for refund or credit unless requested by the Service.

Users not subject to income tax. A user who is not subject to income tax may qualify for a refund of excise tax. Do not claim a refund under this provision if the fuel or lubricant was purchased tax free or if a credit or refund is based only on your organization's exempt status as explained in *Exempt Sales,* in Parts I and II.

The following users may, if they qualify, file claims for refund of the tax paid:

1) A department, agency, or instrumentality of the United States,
2) A state, county, city, or other subdivision of a state,
3) An agency or instrumentality of one or more states, counties, cities, etc.,
4) An organization that has been granted an exemption from the income tax, and is not required to file an income tax return. (Aircraft museums are in this category.)

Users who are not subject to income tax may file quarterly claims for refund for quarters for which the claim is $1,000 or more. But a quarterly claim may not be filed for the last quarter of the tax year. If, at the close of a tax year, you are entitled to an amount for which quarterly claims have not been filed, you may file a refund claim for these amounts within the time allowed for filng a claim for credit or refund of overpayment of income tax.

For these users, a tax year is the 12-month period normally used to keep financial records. If you have no regularly established tax year, your tax year will be the calendar year.

File the claim for refund, Form 843, in the name of the Government, agency, or instrumentality, or the exempt organization. It should be signed by the appropriate official.

Exempt organizations with unrelated business income required to file an *Exempt Organization Business Income Tax Return,* Form 990-T, follow the procedures outlined at the beginning of this Part.

Farmers cooperative associations required to file Form 990-C, *Exempt Cooperative Association Income Tax Return,* follow the procedure outlined at the beginning of this Part for claiming a refund or credit.

Information to Be Furnished

Your claim for credit or refund of fuel and lubricant tax should include a statement showing:

1) The total number of gallons used during the period for which a credit or refund is claimed, multiplied by the appropriate rate of tax,
2) The purpose or purposes (for example, the qualified business use) for which the fuels and lubricating oil were used and the amount used for each purpose. (A list of uses by general categories will do.) and
3) The Internal Revenue Service Center where you filed your last income tax return (needed when a quarterly claim for refund is filed).

Form 4136 may be used as a worksheet with a claim for refund and should be used with a claim for a credit. For qualifying taxicab service, use Form 4136-T.

Year to Include In Gross Income

Include in gross income your tax refund or credit on fuels to the extent your deduction, as a business expense or as an income-producing expense for the tax paid or incurred, resulted in a reduction of your income tax. The year it is includible in gross income depends on whether you use the cash or accrual method of accounting.

A cash basis taxpayer who qualifies and files a quarterly claim for refund should include the refund in gross income for the tax year in which the refund is received. A cash basis taxpayer who claims a credit on an income tax return includes the credit in gross income for the tax year in which a timely income tax return is filed on which the credit is claimed. If an amended return or claim for credit or refund is filed claiming credit for the tax, include the tax refunded in gross income for the tax year in which it is received.

An accrual basis taxpayer should include the entire amount of the claim in gross income for the tax year in which the qualifying use occurred. It does not matter if an accrual basis taxpayer filed for a quarterly refund or claimed the entire amount as a credit.

Example. X Corporation is a calendar year taxpayer. For 1979, it had the following gasoline tax credit at the end of each quarter:

January 1 through March 31	$1,500
April 1 through June 30	1,200
July 1 through September 30	900
October 1 to December 31	1,300

These amounts had properly been deducted as an expense in 1979.

X Corporation could file quarterly refund claims for the quarters ending March 31 and June 30. It could not file a quarterly refund claim for the quarter ending September 30, because the amount of the credit was less than $1,000. Neither could it file a quarterly refund claim for the quarter ending December 31, because this was the last quarter of the tax year. If X Corporation figures its income under the cash method of accounting and filed quarterly claims for the two quarters for which it was eligible, it would have included $2,700 ($1,500 + $1,200) in its gross income for the tax year in which it received the refund to the extent the corporation's deduction for the tax paid, reduced its 1979 income tax. The corporation would have claimed the remainder of the credit ($900 + $1,300) on its income tax return that was due by March 17, 1980. The credit ($2,200) would have been included in X Corporation's 1980 gross income to the extent the corporation's deduction for the tax paid reduced its 1979 income tax. If X Corporation figured its income under the accrual method of accounting, it would have included the entire claim, $4,900, in its 1979 gross income to the extent its deduction for the tax reduced its 1979 income tax.

Part VI
General Information

You need not submit copies of vouchers or checks showing the purchase of and payment for fuels and lubricating oil for which you claim a credit or file a claim for refund. However, you should keep at your principal place of business records that will enable the Internal Revenue Service to verify the amount claimed. No special form is required, but the records should establish:

1) The number of gallons purchased during the period of your claim,
2) The dates of the purchases,
3) The number of gallons used for a purpose that qualifies for a credit or refund, and
4) The names and addresses of suppliers and amounts purchased from each in the period of your claim.

It is important that your records show separately the number of gallons used for a purpose that qualifies for a claim as described in this publication.

Interest

The law forbids the payment of interest on refunds described in this publication except for refunds resulting from credits claimed on income tax returns.

Penalties

There are criminal penalties for false or fraudulent claims. The law also provides that any person who claims an excessive amount (without reasonable cause) may be charged a penalty. The penalty is two times the excessive amount or $10, whichever is greater.

READEX FICHE

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